



Department of Environmental Protection

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Underground Storage Tank Program Frequently Asked Questions: 310 CMR 80.00

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1. What are the third-party inspector conflict of interest prohibitions?

310 CMR 80.49(6) prohibits third-party inspectors (TPIs) from conducting third-party inspections where the TPI would have a potential conflict of interest.

310 CMR 80.49(6) prohibits a TPI from inspecting a UST system where:

- A. He or she owned or operated the UST facility in the year prior to the third-party inspection;
- B. In the year prior to the date of the third-party inspection, he or she performed work on the UST system and is related to the Owner or Operator of the UST system, or is related to an employee or contractor who performed work on the UST system in the year prior to the date of the third-party inspection;
- C. He or she was an employee of the Owner or Operator or contractor who performed work on the UST system in the year prior to the third-party inspection;
- D. He or she was the designated Class A, B or C operator of the UST system in the year prior to the third-party inspection; or
- E. He or she has a financial interest or daily on-site responsibilities in the year prior to the third-party inspection.

Note: “Performed work on the UST system” means physical work on the UST system, such as installing, repairing or replacing components or conducting tests on the UST system, etc. A person who worked at a UST facility where his or her responsibilities did not include work performed on the UST system is not subject to the one-year conflict of interest standard.

Note: A person who works alone as a maintenance contractor and is also a third-party inspector cannot perform a Third-Party Inspection on a UST system that he or she has performed maintenance work on in the prior year. However, a business that employs more than one person can split up roles among employees. For example, Employee A can serve as the TPI for a facility; while at the same time Employee B from the same company can serve as the maintenance technician.

2. Are UST systems taken temporarily out of service before January 2, 2017, under the DFS regulations able to remain out of service for the five years allowed under 310 CMR 80.00?

Yes, a UST system that was taken temporarily out of service (TOS) in compliance with the applicable DFS requirements before January 2, 2015, and is in compliance with the applicable requirements of 310 CMR 80.00 can keep its TOS status for five years from the date on which the UST system was taken temporarily out of service.

3. Are facilities still required to perform daily inventory monitoring?

Daily inventory monitoring is only required for UST systems that are not double-walled and do not have a continuous interstitial space leak detection monitoring system or a continuous in-tank leak detection monitoring system.

Daily inventory monitoring is no longer required for any other types of UST systems. However, facility Owners/Operators may choose to perform daily inventory monitoring if they wish to.

4. What is a regulated substance under 310 CMR 80.00?

A regulated substance is:

- A. Any substance in the table at 40 CFR 302.4 List of Hazardous Substances and Reportable Quantities (<http://www.epa.gov/osweroe1/docs/er/302table01.pdf>)
- B. Waste oil, but not any other hazardous waste regulated under M.G.L. c. 21C; and
- c. Petroleum, including crude oil or any fraction of crude oil which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 p.s.i. absolute).

USTs that contain a *de minimus* concentration of a regulated substance are exempt from the requirements of 310 CMR 80.00 if:

- A. The concentration of regulated substance does not exceed the GW1 groundwater reportable concentrations in the Massachusetts Oil and Hazardous Materials List at 310 CMR 40.1600: *Massachusetts Oil and Hazardous Material List*; or
- B. A regulated substance is not listed at 310 CMR 40.1600: *Massachusetts Oil and Hazardous Material List*, the UST Owner/Operator can demonstrate a regulated substance's *de minimus* concentration by demonstrating that the regulated substance does not display characteristics of ignitability, corrosivity, flammability and/or toxicity and keeps records of said demonstration in accordance with 310 CMR 80.36(7) until the Owner/Operator no longer claims the exemption.

5. Is a permit required to install a UST system?

No, neither MassDEP nor DFS requires a permit to install a UST system.

- A. MassDEP does have UST system and component installation requirements that can be found at 310 CMR 80.14 through 80.22
- B. DFS requires a permit to store flammable and combustible material in a UST system (FP-6). The FP-6 permit is issued by the local fire department.
- C. Individual municipalities may have their own UST permits/forms issued by the Mayor's Office, Board of Selectmen, Planning Board or Board of Appeals, etc. Please contact the municipality where the tank is being installed for more information.

For more information, see a "Joint MassDEP/DFS UST Program Coordination" memo:

<http://www.mass.gov/eea/docs/dep/toxics/ust/ust-memo.pdf>